

ORIGINAL

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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JAN 01 2006

ATTORNEY FOR PLAINTIFF,  
MATTHEW HARRELL,

at 8 o'clock and 24 min. P.M.  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

MATTHEW HARRELL,

Plaintiff,

VS.

CITY AND COUNTY OF HONOLULU,  
A Municipal corporation, the Royal Hawaiian  
Band, Aaron Mahi, Sr. Director, Robert  
Larm, and Sanford Masada.  
Employees.

Defendants.

) Civil No. 01-00555 MEA-KSC  
) Civil No. 02-00223 MEA-KSC  
)  
) PLAINTIFF'S MEMORANDUM  
) IN OPPOSITION TO PRE-  
) SELECTION OF THE JURY WITH  
) OUT RANDOM DRAW OF NAMES  
) IN OPEN COURT  
)

) Judge: Hon. Marvin Aspen  
) Time: 8:30 AM  
) Trial: Jan. 4, 2006  
)

) CERTIFICATE OF SERVICE

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO PRE-SELECTION  
OF THE JURY WITHOUT RANDOM DRAW OF NAMES IN OPEN COURT

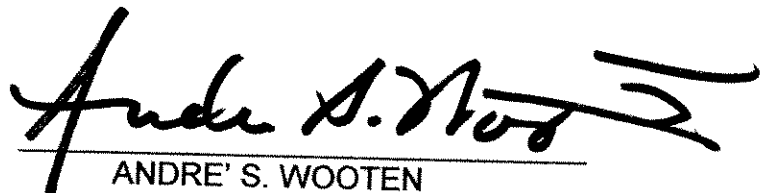
COMES NOW THE PLAINTIFF, MATTHEW HARRELL, through his attorney, Andre' Wooten, who hereby files this Memorandum in Opposition to the selection of the jury panel members prior to the beginning of the court session for jury impanelment and outside of the presence of counsel.

After much reflection, Plaintiff's counsel must point out that traditionally in the 9<sup>th</sup> Circuit, during the 29 years that I have been trying jury cases, the seated

panelists are selected at random from the pulling of their names from a sealed box. The randomness and anonymity of the selection process is a vast aid to the fairness and appearance of fairness of the process. Greater transparency in these matters presents ambiguity and questions of fairness and preserves recognized traditional jury trial procedures designed to ensure protection of the 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup> 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments.

Hence. Plaintiff respectfully requests that the jury be impaneled in the traditional manner of the seated jurors names being drawn out of a box containing all of the members of the jury panel, by the clerk. While it might take a little bit longer, the transparency of the fairness of the selection process is essential and worth it.

DATED: HONOLULU, HAWAII, January 1, 2006.

  
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ANDRE' S. WOOTEN  
ATTORNEY FOR PLAINTIFF  
MATTHEW HARRELL

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CERTIFICATE OF SERVICE

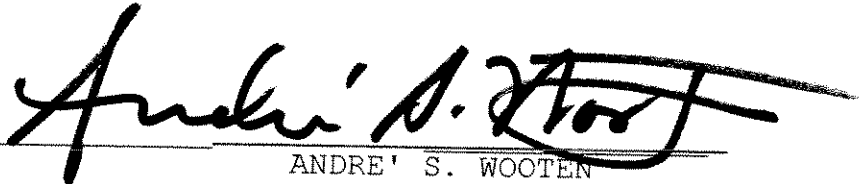
I hereby certify that a copy of the Foregoing was duly  
served upon the following on January 2, 2006  
by:

( ) Delivering same, postage prepaid, addressed to:

( ) Delivering to:

TO: The Office of the Corporation Counsel  
David Arakawa, Esq.  
Derrick Miyashiro, Esq., Deputy  
Moana Yost, Esq., Deputy  
Honolulu Hale  
530 South King Street  
Honolulu, Hawaii 96813

Attorneys for Defendants

A handwritten signature in black ink, appearing to read "Andre S. Wooten", is written over a horizontal line. The signature is stylized with a large, sweeping "A" and a distinct "W".

ANDRE S. WOOTEN